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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,626	03/16/2004	Kim Kwee Ng		2625

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KIM KWEE NG
10 MALIBU LANE
CENTEREACH, NY 11720-3042

EXAMINER

SMITH, KIMBERLY S

ART UNIT PAPER NUMBER

3644

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/708,626	Applicant(s) NG, KIM KWEE	
	Examiner Kimberly S. Smith	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) 23, 25-28, 31, 34, 35 and 38-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21, 22, 24, 29, 30, 32, 33, 36 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 23, 25-28, 31, 34, 35 and 38-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 06/03/05.

Claim Objections

2. Claim 33 is objected to because of the following informalities: insert - -a- - prior to “distal” in line 6. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21, 22, 24, 29, 30, 32, 33, 36 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 21, 33 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the claim has not positively recited the limitation of a chamber. The claims as currently constructed are inclusive of only an aperture including a first set of deflectable strips leading from the aperture. As an aperture is merely defined as a hole, it is unclear as to how deflectable strips can lead from the aperture.

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6. Further regarding claims 21, 33 and 36, it is unclear as to what the Applicant defines the enclosure to be as it is the set of a plurality of deflectable strips within the specification that are disclosed as producing an enclosure. As such, it is unclear as to whether the enclosure as claimed is to be inclusive of more than just the plurality of deflectable strips.

Claim Rejections - 35 USC § 102

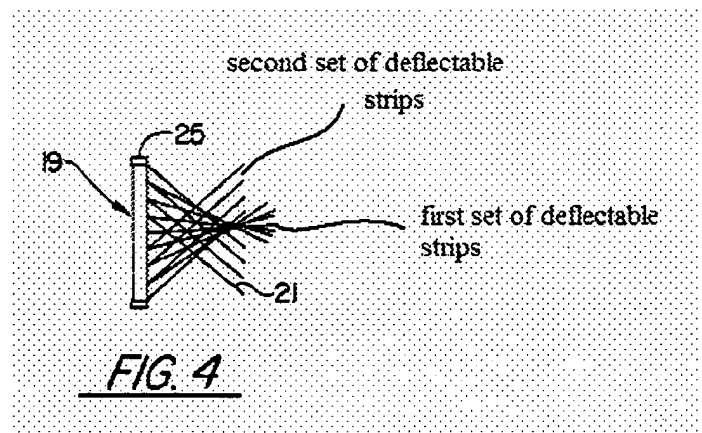
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson, US Patent 6,158,165.

Wilson discloses an insect trap comprising an aperture (at 19), a first set of deflectable strips (i.e. the more interior of the disclosed strips at 21, as seen at the right), an enclosure for surrounding the crawl path (24) and an insect attractant (17) wherein the insect enters the aperture and deflects the strips which then return to a closed position once the insect has departed the strips (column 2, lines 4-7)



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Regarding claim 22, Wilson discloses the enclosure comprises a second set of a plurality of deflectable strips (i.e. the more exterior of the disclosed strips at 21, as seen in the Figure above).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson, US Patent 6,158,165 as applied to claim 21 above in view of Earwood, US Patent 1,655,361.

Wilson discloses the invention substantially as claimed. However, Wilson does not disclose the use of an array of tines mounted to the underside of the deflectable strips. Earwood teaches within the same field of endeavor the use of an array of tines (21) mounted to the underside of the deflectable strips to deter the captured animal/insect from exiting the trap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the array of tines as taught by Earwood with the device of Wilson in order to deter the insect from exiting the trap.

Regarding claim 33, reference discussion above regarding claims 21 and 24.

11. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson, US Patent 6,158,165 as applied to claim 21 above in view of Harwoods, US Patent 4,244,135.

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Wilson discloses the invention substantially as claimed including the use of an insect attractant (17). However, Wilson does not disclose the attractant being a slidable tray.

Harwoods teaches within the same field of endeavor the use of a slidable tray containing attractant so as to allow for replenishment of the bait while there are still living insects within the container (column 1, lines 44-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the tray as taught by Harwoods with the device of Wilson so as to allow for replenishment of the bait without having to wait for all of the trapped insects to die.

12. Claims 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Harwoods as applied to claim 29 above, and further in view of Walker, US Patent 5,896,695.

Wilson as modified discloses the invention substantially as claimed. However, Wilson as modified does not disclose a cross-wired mesh cover covering the tray. Walker teaches within the same field of endeavor the use of a cross-wired mesh cover (36) for placement over a tray in order to preclude the ingestion of the insect attractant (column 5, lines 12-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the mesh screen as taught by Walker with the device of Wilson as modified in order to prevent the insects from ingesting the insect attractant thereby increasing the useful lifespan of the insect attractant.

Regarding claim 36, reference discussion of claims 21, 29 and 30 above.

13. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson, US Patent 6,158,165 in view of Ridings, US Patent 3,996,690.

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Wilson discloses the invention substantially as claimed. However, Wilson does not positively disclose the type of insect attractant to be used. Ridings teaches within the same field of endeavor the use of a hollow cartridge (8) containing segments of adhesive sticky material (18) for the attraction of insects. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the adhesive strip as taught by Ridings with the device of Wilson as sticky paper is known to be a functional equivalent of any type of insect attractant (column 2, lines 24-27) and would be obvious to use such dependent upon the type of insect the users wishes to attract.

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as modified as applied to claim 36 above, and further in view of Earwood, US Patent, 1,655,361.

Wilson as modified discloses the invention substantially as claimed. However, Wilson does not disclose the use of an array of tines mounted to the underside of the deflectable strips. Earwood teaches within the same field of endeavor the use of an array of tines (21) mounted to the underside of the deflectable strips to deter the captured animal/insect from exiting the trap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the array of tines as taught by Earwood with the device of Wilson in order to deter the insect from exiting the trap.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schneidmiller (US 6,910,298), Oettinger (US 1,209,993).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is 571-272-6909.


The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kimberly S Smith
Examiner
Art Unit 3644

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